

Atty. Dkt. No. 084561-0108
Appl. No. 09/888,439

REMARKS

The Examiner is thanked for her detailed review of our unusually long response to the prior office action. Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

We are amending all independent claims to emphasize the multiple respective communications or opportunities to communicate with the system at the initiative of the buyer entity and the system response to such communication. In particular, we are adding a submission of purchase records by buyer entities through a process wherein buyer entity passwords and user ID's are received on the initiative and with the consent of the buyer entity, which, clearly and distinctly distinguishes over the prior art. Thus, the system is accessing accounts, but only after a password and user ID is received from a buyer entity. Further we are including the "editing feature" in all independent claims, which provides a further operation of the system to provide access to buyer entities to delete individual purchase records in their respective profiles. All added limitations can be found in the same part of the specification, between paragraphs 132 and 151 (All paragraph numbers refer to the paragraph numbers of the submitted application not of the published application.)

Claims 1-21, 27-35, 39-70, 74-75, 94-111, 117-125, 129-160, 164-165, 194-205 have been rejected under 35 U.S.C. § 103(a). This rejection is respectfully traversed and reconsideration thereof is requested. In order to facilitate allowance of this application, independent claims 1, 94 and 204 have been amended to add limitations to obviate this rejection, and further prosecution on the previously submitted claims will be pursued in a continuation. Furthermore, we have cancelled independent claim 205 and we have also cancelled all dependent claims except for 10, 11, 12, 13, 47, 48, 49, 51, 52, 64, 65 and 68, and the corresponding dependent system claims 100, 101, 102, 103, 137, 138, 139, 141, 142, 154, 155 and 158. These canceled claims may also be pursued separately.

A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

The Examiner has issued a provisional double patent patenting rejection and has

Atty. Dkt. No. 084561-0108
Appl. No. 09/888,439

suggested the filing of a terminal disclaimer. A terminal disclaimer may be submitted in the remaining application(s) once one of the applications is allowed per M.P.E.P. 822.01.

The Examiner has further rejected Claim 1 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In response, applicant has clarified and amended such claim to avoid such rejection.

In response to the Examiner remarks, applicant emphasizes that each of the prior art references relied upon by the Examiner teach the use of transaction data which is generated and harvested by retail & marketing companies in the course of their selling of products and services to buyers. By sharp contrast, the presently pending claims clearly define that the transaction data is not procured by sellers (or by the payment companies that work for these sellers) but rather that the data is provided by buyers and with the communication step with the buyer in the method encompassing the receipt of passwords and user IDs. Thus, the buyer-driven nature of the present invention governs its use, application and effectiveness.

In the prior art, when sellers use and harvest transaction data (or allow for their use) for the purpose of targeting advertisements and promotions at buyers, these sellers capture such data and identify the buyer at the point of sale, and then transfer such data for the purpose of building profiles of the buyers to whom they sell. By sharp contrast, the presently pending claims do not define a seller-driven system, but instead is a buyer-driven targeting system. It allows buyers, among other things, (1) to provide data from outside any previously existing sales or payment system; (2) to provide comprehensive purchase histories over time, showing purchases made with multiple independent merchants, and paid for in many different ways, (3) to direct the use of these data, and (4) to be appropriately rewarded for the provision of such data.

The use of data procured via the presently claimed buyer-driven system faces far less restrictions than if the same data were procured from sellers or with their active cooperation. The data can be used by advertisers to directly compete for the business of the best buyers of their direct competitors by providing preferential and exclusive discounts (which are different from discounts normally provided in the course of advertising or promotions). Of course,

Atty. Dkt. No. 084561-0108
Appl. No. 09/888,439

companies currently do not and would not actively cooperate (or allow their payment partners to actively cooperate) with a system that allows other merchants to steal their best customers.

Although we believe that the Examiner's current proposed references contain strong deficiencies, in the interest of expediting the prosecution of the present application applicant has further amended each of the independent claims to add limitations focusing on and further emphasizing the communication steps taking place by or through the system with the buyer entity itself, to put the present application in a clear condition for allowance, without the need for further examination:

In particular, now claimed is:

- 1) Automatic access to web-based online accounts of the buyer entities using passwords and usernames for receiving information (see support in at least paragraphs 132 and 148 to 151; all paragraph numbers refer to the paragraph numbers of the specification as originally submitted to the patent office).

Simply nowhere in the prior art is there disclosed, taught or suggested any sort of incentive system which allows consumers to enhance their chances of receiving lucrative and exclusive promotions by supplying their verifiable purchase history with this type of communication step with a buyer entity.

- 2) Wherein the receiving step encompasses a communication with the buyer entity wherein the buyer entity's passwords and usernames are provided on the initiative and with the explicit consent of the buyer entity. (see support in at least paragraphs 132 and 148 to 151; all paragraph numbers refer to the paragraph numbers of the specification as originally submitted to the patent office).

- 3) Provision of access to the buyer entity to allow the buyer entity to Edit/Delete individual items of user profile information (see support in at least paragraphs 143 and 150 of the originally filed specification)

Atty. Dkt. No. 084561-0108
Appl. No. 09/888,439

Simply nowhere in the prior art is there disclosed, taught or suggested any sort of incentive system that allows access to consumers to delete part of the verifiable purchase history they have previously submitted.

Based on the above additional restrictions, favorable reconsideration of the application as amended is respectfully requested.

We have added the words "on the initiative and consent" of the buyer entity as suggested by the examiner. By specifying the specific manner in which a buyer entity transfers its purchase records from its own possession or access to the possession/access of the present inventive system, we hope to have restricted the invention in its present embodiment even beyond the suggestion and requirement of the examiner. As a result of all of the above added restrictions, claim 1 now contains a unique set of communications which define steps for the buyer entity's active creation and management of its own profile and which creates a sharp contrast between the present system and the prior art.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. § 1.136 and authorizes payment of any such extension's fees to Deposit Account No. 19-0741.

Atty. Dkt. No. 084561-0108
Appl. No. 09/888,439

Respectfully submitted,

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